



SBC Wisconsin
722 N. Broadway
Floor 13
Milwaukee, WI 53202

December 14, 2005

Ms. Christy Zehner
Secretary to the Commission
Public Service Commission of Wisconsin
P.O. Box 7854
Madison, Wisconsin 53707-7854

Re: Application for the Approval of a Negotiated Term Extension and Conforming
TRO/Post TRO Remand Amendment to the Interconnection Agreement between Wisconsin
Bell, Inc., d/b/a SBC Wisconsin, and IDT America Corp.

Dear Ms. Zehner:

Wisconsin Bell, Inc., d/b/a SBC Wisconsin, and IDT America Corp. hereby request approval,
pursuant to 47 U.S.C. 252, of this Negotiated Term Extension and Conforming TRO/Post
TRO Remand Amendment to the Interconnection Agreement between IDT America Corp.
and Wisconsin Bell, Inc., d/b/a SBC Wisconsin.

I have been authorized by IDT America Corp. to submit for Commission approval, pursuant
to 47 U.S.C. s 252(e), the enclosed agreement.

IDT America Corp.
Andrew Fisher, Esq.
520 Broad Street
Newark, NJ 07102
Tel: 973-438-3683

Very Truly Yours,

Joan Schoenberger

**AMENDMENT TO
INTERCONNECTION AGREEMENT
BY AND BETWEEN
WISCONSIN BELL, INC. d/b/a SBC WISCONSIN
AND
IDT AMERICA CORP**

This Amendment is entered into by and between SBC Operations, Inc. on behalf of and as agent for Wisconsin, Bell Inc. d/b/a SBC Wisconsin (hereinafter referred to as "SBC Wisconsin") and IDT America Corp and any of its current and future Affiliates or subsidiaries which are a Certified Local Exchange Carrier ("IDT"), in the state of Wisconsin. SBC Wisconsin and IDT may be referred to individually as "Party," or collectively as the "Parties." Affiliate shall have the meaning as set forth in the Act.

WHEREAS, SBC Wisconsin and IDT entered into an interconnection agreement, as amended, pursuant to Sections 251 and 252 of the Communications Act of 1934, as amended (the "Act") and approved by the public utilities commission in the state of Wisconsin (referred to as "Agreement"); and

WHEREAS, the Federal Communications Commission ("FCC") released on August 21, 2003 a "Report and Order on Remand and Further Notice of Proposed Rulemaking" in CC Docket Nos. 01-338, 96-98 and 98-147, 18 FCC Rcd 16978 (as corrected by the Errata, 18 FCC Rcd 19020, and as modified by Order on Reconsideration (rel. August 9, 2004) (the "*Triennial Review Order*" or "*TRO*"), which became effective as of October 2, 2003; and

WHEREAS, by its *TRO*, the FCC ruled that certain network elements were not required to be provided as unbundled network elements under Section 251(c)(3) of the Telecommunications Act of 1996 ("Act"), and therefore, SBC Wisconsin is no longer legally obligated to provide those network elements on an unbundled basis to IDT under federal law; and

WHEREAS, the U.S. Circuit Court of Appeals, District of Columbia Circuit released its decision in *United States Telecom Ass'n v. F.C.C.*, 359 F3d 554 (D.C. Cir. 2004) ("*USTA II*") on March 2, 2004 and its associated mandate on June 16, 2004; and

WHEREAS, the *USTA II* decision vacated certain of the FCC rules and parts of the *TRO* requiring the provision of certain unbundled network elements under Section 251(c)(3) of the Act; and

WHEREAS, the FCC issued its Order on Remand, including related unbundling rules,¹ on February 4, 2005 ("*TRO Remand Order*"), holding that an incumbent LEC is not required to provide access to local circuit switching on an unbundled basis to requesting telecommunications carriers (CLECs) for the purpose of serving end-user customers using DSO capacity loops ("mass market unbundled local circuit switching" or "Mass Market ULS"), and holding that an incumbent LEC is not required to provide access to certain high-capacity loops and certain dedicated transport on an unbundled basis to requesting telecommunications carriers (CLECs) all subject to certain transition requirements set forth below; and

¹ Order on Remand, *Unbundled Access to Network Elements: Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313; CC Docket No. 01-338, (FCC released Feb. 4, 2005).

WHEREAS, based on the specific intercarrier compensation, interconnection, collocation, and other provisions in IDT's Agreement, the Parties agree to amend the Agreement to extend the applicable term(s) of such Agreement as set forth below.

NOW, THEREFORE, in consideration of the foregoing, and the promises and mutual Agreements set forth in the Agreement and in this Amendment, the Agreement is hereby amended as follows:

1.0 Scope of Agreement and Lock In

- 1.1 The Whereas clauses contained herein are hereby incorporated into this Amendment.
- 1.2 The Parties agree that this Amendment will act to supersede, amend and modify the applicable provisions currently contained in the Agreement.
- 1.3 The Parties intend that the Agreement, as amended by this Amendment, should govern their business relationship for the specified term(s), subject only to the terms and conditions in such Agreement, as amended by this Amendment, including, but not limited to, the expiration and termination provisions set forth herein. Accordingly, IDT hereby waives its section 252(i) MFN rights for the remaining term of the Agreement, as amended by this Amendment.

2.0 Effective Date and Term

- 2.1 The Term Sections or similar provisions of the General Terms and Conditions in the Agreement are hereby deleted in their entirety and replaced with the following:
 - 2.1.1 This Agreement, as amended by this Amendment, will be extended for a period of twenty-four (24) months from the Amendment Effective Date unless terminated earlier upon the effective date of a written and signed agreement between the parties that this Agreement is terminated. Absent the receipt by one Party of written notice from the other Party not earlier than one hundred eighty (180) calendar days prior to the expiration of the term to the effect that such Party does not intend to extend the Agreement ("Notice of Expiration"), this Agreement, as amended by this Amendment, shall remain in full force and effect, on a month-to-month basis, on and after the expiration of the term until terminated by either Party upon written notice.
 - 2.1.2 If either Party serves Notice of Expiration pursuant to Section 2.1.1 above, IDT shall have twenty (20) calendar days to provide SBC Wisconsin written confirmation if IDT wishes to pursue a successor agreement with SBC Wisconsin or alternatively, if IDT wishes to allow the current Agreement to expire. If IDT wishes to pursue a successor agreement with SBC Wisconsin IDT shall attach to its written confirmation or Notice of Expiration, as applicable, a written request to commence negotiations with SBC Wisconsin under Sections 251/252 of the Act. Upon receipt of IDT's Section 252(a)(1) request, the Parties shall commence good faith negotiations on a successor agreement.

- 2.1.3 If IDT does not affirmatively state that it wishes to pursue a successor agreement with SBC Wisconsin in its, as applicable, Notice of Expiration or the written confirmation required after receipt of SBC Wisconsin's Notice of Expiration, then the rates, terms and conditions of this Agreement, as amended by this Amendment, shall continue in full force and effect until the later of 1) the expiration of the Term of this Agreement, or 2) the expiration of ninety (90) calendar days after the date IDT provided or received Notice of Expiration. Unless otherwise agreed by the Parties, if the Term of this Agreement has expired, on the ninety-first (91st) day following IDT provided or received Notice of Expiration, the Parties shall have no further obligations under this Agreement except those described in Survival of Obligations Section of the General Terms and Conditions.
- 2.1.4 The terms and conditions and rates and charges contained herein will continue to apply until the earlier of (i) termination by either Party under the terms of this Agreement, as amended by this Amendment; (ii) the date a successor agreement becomes effective, or (iii) the date that is ten (10) months after the date on which SBC Wisconsin received IDT's Section 252(a)(1) request, unless an arbitration petition has been filed by either Party, in which case (ii) applies.
- 2.2 Except as expressly set forth herein, nothing in this Amendment is intended to affect a Party's termination rights under the Agreement including, without limitation, the right to terminate for breach or failure to pay.
- 3.0 TRO-Declassified Elements**
- SBC Wisconsin is not required to provide to IDT any of the following items either alone or in combination (whether new, existing, or pre-existing) with any other element, service or functionality, but only to the extent SBC Wisconsin is relieved of its obligations under the terms of the TRO:
- (i) entrance facilities;
 - (ii) DSO or OCn level dedicated transport;
 - (iii) "enterprise" market (DS1 and above) local circuit switching (defined as (a) all line-side and trunk-side facilities as defined in the *TRO*, plus the features, functions, and capabilities of the switch. The features, functions, and capabilities of the switch shall include the basic switching function of connecting lines to lines, lines to trunks, trunks to lines, and trunks to trunks, and (b) all vertical features that the switch is capable of providing, including custom calling, custom local area signaling services features, and Centrex, as well as any technically feasible customized routing functions);
 - (iv) OCn loops;
 - (v) the feeder portion of the loop;
 - (vi) line sharing;
 - (vii) any call-related database, other than the 911 and E911 databases, to the extent not provided in conjunction with unbundled local switching;

- (viii) shared transport and SS7 signaling to the extent not provided in conjunction with unbundled local switching;
- (ix) packet switching, including routers and DSLAMs;
- (x) the packetized bandwidth, features, functions, capabilities, electronics and other equipment used to transmit packetized information over hybrid loops (as defined in 47 CFR 51.319 (a)(2)), including without limitation, xDSL-capable line cards installed in digital loop carrier ("DLC") systems or equipment used to provide passive optical networking ("PON") capabilities; and
- (xi) fiber-to-the-home loops and fiber-to-the-curb loops (as defined in 47 C.F.R. § 51.319(a)(3)) ("FTTH Loops" and "FTTC Loops"), except to the extent that SBC Wisconsin has deployed such fiber in parallel to, or in replacement of, an existing copper loop facility and elects to retire the copper loop, in which case SBC Wisconsin will provide nondiscriminatory access to a 64 kilobits per second transmission path capable of voice grade service over the FTTH Loop or FTTC Loop on an unbundled basis to the extent required by terms and conditions in the Agreement.

The above-listed items are referred to in this Amendment as "TRO-Declassified Elements."

4.0 Combination and Commingling of Network Elements – TRO Clarifications

- 4.1 As conditions to accessing and using any UNE (whether on a stand-alone basis or in combination with other UNEs, with a network element possessed by IDT, or pursuant to Commingling), IDT must be a Telecommunications Carrier (Section 251(c)(3)), and must use the UNE(s) for the provision of a Telecommunications Service (Section 251(c)(3)) as permitted by the FCC. IDT hereby represents and warrants that it is a telecommunications carrier and that it will notify SBC Wisconsin immediately in writing if it ceases to be a telecommunications carrier. Failure to so notify SBC Wisconsin shall constitute a material breach of this Agreement.
- 4.2 At the request of IDT, SBC Wisconsin shall provide Unbundled Network Elements to IDT in a manner that allows IDT to combine those UNEs to provide a Telecommunications Service. Except as provided in this Agreement, including this Amendment, SBC Wisconsin shall provide access to UNEs without regard to whether IDT seeks access to the UNEs to establish a new circuit or to convert an existing circuit from a service to UNEs.
- 4.3 "Commingling" means the connecting, attaching, or otherwise linking of a UNE, or a combination of UNEs, to one or more facilities or services that IDT has obtained at wholesale from SBC Wisconsin or the combining of a UNE, or combination of UNEs, with one or more such facilities or services. "Commingle" means the act of Commingling.
- 4.4 Subject to the other provisions of this Agreement, including this Amendment, SBC Wisconsin shall permit IDT to Commingle a UNE or a UNE combination with one or more facilities or services that IDT has obtained at wholesale from SBC Wisconsin. In addition, upon request, subject to the other provisions of this Agreement, including this Amendment, SBC Wisconsin shall perform the functions necessary to Commingle a UNE or a UNE combination with one or more facilities or services that IDT has obtained at wholesale from SBC Wisconsin. Therefore, subject to the other provisions of this Agreement, including this Amendment, (i) IDT may connect, combine, or otherwise attach UNEs and combinations of UNEs to wholesale services obtained from SBC

- Wisconsin (*e.g.*, switched and special access services offered pursuant to tariff), and (ii) SBC Wisconsin shall not deny access to UNEs and combinations of UNEs on the grounds that such UNEs are connected to, linked to, or combined with wholesale services obtained from SBC Wisconsin. Notwithstanding anything to the contrary in this Amendment, SBC Wisconsin shall have no obligation to perform the functions necessary to combine (or to complete the actual combining) or Commingle (or to complete the actual Commingling) if (i) it is not technically feasible or (ii) it would undermine the ability of other Telecommunications Carriers to obtain access to UNEs or to interconnect with SBC Wisconsin's network.
- 4.5 SBC Wisconsin shall not be required to, and shall not, provide "ratcheting"² as a result of a Commingled Arrangement. SBC Wisconsin shall charge the rates for UNEs (or UNE combinations) Commingled with facilities or services obtained at wholesale from SBC Wisconsin (including for example special access services) on an element-by-element basis and such facilities and services on a facility-by-facility, service-by-service basis.
- 4.6 In accordance with and subject to the provisions of this Amendment, any request by IDT for SBC Wisconsin to perform the functions necessary to Commingle (as well as requests where IDT also wants SBC Wisconsin to complete the actual Commingling), shall be made by IDT in accordance with this Amendment.
- 4.6.1 SBC Wisconsin has developed the following list of Commingled Arrangements that are available for ordering on a non-BFR basis by IDT, which list is posted on "CLEC On-line."
- UNE DS1 loop connected to a muxed DS3 special access facility;
 - UNE DS1 transport connected to a muxed DS3 special access facility; and
 - UNE DS3 transport connected to a non-concatenated channelized (special access higher facility); and
 - UNE DS1 loop connected to a dedicated DS1 transport special access facility.
- 4.6.2 As other Commingling Arrangements become developed and tested by SBC Wisconsin, SBC Wisconsin may add such Arrangements to the list on "CLEC On-line" that are available without submitting a BFR and IDT may order such arrangements under this Agreement, as amended by this Amendment. For any Commingled arrangement, SBC Wisconsin shall charge IDT the rates and charges applicable to the Section 251 UNE(s) or those applicable to the facilities or services that IDT has obtained at wholesale from SBC Wisconsin as well as other applicable rates (*e.g.* service order charge, record change charge).
- 4.6.3 Any IDT request for a Commingled Arrangement not found on the above list of Commingled Arrangements and not listed on the "CLEC-On-line," must be submitted via the bona fide request (BFR) process. In any such BFR, IDT must designate among other things the UNE(s), combination of UNEs, and the facilities or services that IDT has obtained at wholesale from SBC Wisconsin sought to be Commingled and the needed location(s), the order in which such UNEs, such combinations of UNEs, and such facilities and services are to be Commingled, and how each connection (*e.g.*, cross-connected) is to be made between them. For such BFR, IDT shall be charged a reasonable fee for any Commingling work done by SBC Wisconsin under this Section 4.6.3 (including performing the actual Commingling) in addition to other applicable charges. Such fee shall be

² "Ratcheting" is a pricing mechanism that involves billing a single circuit at multiple rates to develop a single, blended rate.

calculated using the Time and Material charges as reflected in the Appendix Pricing. SBC Wisconsin's Preliminary Analysis to the BFR shall include an estimate of such fee for the specified Commingling.

- 4.6.4 As stated in Sections 4.3 and 4.4 above, a Commingled Arrangement must contain at least one Section 251(c)(3) unbundled network element. If a Commingled Arrangement ceases to have at least one Section 251(c)(3) network element it will no longer be considered a Commingled Arrangement. For purposes of this Section 4.6.4, TRO-Declassified Elements and TRO Remand-Declassified Elements, after completion of the applicable transition period, will no longer be considered Section 251(c)(3) unbundled network elements. If IDT does not meet or for any reason stops meeting the applicable criteria set forth in Section 4 and/or the Mandatory Eligibility Criteria in Section 6, IDT shall not request such Commingled Arrangement or continue using such Commingled Arrangement.
- 4.6.5 IDT and SBC Wisconsin disagree on whether a Section 271 network element may be included in a Commingled Arrangement that also includes a Section 251(c)(3) UNE. SBC Wisconsin believes that it is not required to include Section 271 network elements in any Commingled Arrangement, even those that include one or more Section 251(c)(3) UNEs. In contrast, IDT believes that as long as a Commingled Arrangement includes one or more Section 251(c)(3) UNEs, SBC Wisconsin must commingle Section 271 elements with such UNE(s) if requested by IDT. Without waiving any rights and without prejudice to any position IDT may take in a subsequent proceeding, for purposes of this Amendment IDT agrees that it will not order, and SBC Wisconsin shall not be required to provision, Commingled Arrangements that include one or more Section 271 network elements. SBC Wisconsin agrees that IDT's agreement in this section shall not constitute a precedent that can be used against IDT in any proceeding except a proceeding to clarify and/or interpret this Agreement, including this Amendment.
- 4.6.6 Except upon request, SBC Wisconsin shall not separate requested UNEs that it currently combines. Except upon request, SBC Wisconsin shall not separate UNEs from other facilities or services that it currently commingles unless required by other provisions of the Agreement, including this Amendment.

5.0 Conversion of Wholesale Services to UNEs – TRO Clarifications

- 5.1 Upon request, and subject to the criteria set forth in Section 4 and the applicable Mandatory Eligibility Criteria set forth in Section 6, SBC Wisconsin shall convert a wholesale service, or group of wholesale services to the equivalent UNE, or combination of UNEs that is available to IDT under terms and conditions set forth in this Agreement, including this Amendment.
- 5.2 SBC Wisconsin shall not impose untariffed termination charges, or any disconnect fees, re-connect fees or charges associated with establishing a service for the first time in connection with any conversion between a wholesale service or a group of wholesale services and a UNE or combination of UNEs. SBC Wisconsin shall provide IDT with the requested conversions with any disruption to the end user's services reduced to a minimum or, where technically feasible given current systems and processes, no disruption should occur. Where disruption is unavoidable due to technical considerations, SBC Wisconsin shall accomplish such conversions to minimize any disruption detectable to the end user. Where necessary or appropriate, SBC Wisconsin shall coordinate it with IDT's representatives to accomplish this goal.

- 5.3 IDT will issue the appropriate orders to convert wholesale services or a group of wholesale services to UNEs or combinations of UNEs unless the Parties mutually agree to handle such conversion(s) on a project basis. Applicable charges for UNEs or combinations of UNEs set forth in the Pricing Schedule, of the Agreement shall apply when the order is completed.
- 5.4 If it is determined through an audit and/or dispute resolution process under this agreement, or IDT otherwise agrees, that IDT does not meet or for any reason stops meeting the criteria set forth in Section 4 and the applicable Mandatory Eligibility Criteria in Section 6 for a particular conversion of a wholesale service, or group of wholesale services, to the equivalent UNE, or combination of UNEs, IDT shall not request such conversion or continue using such the UNE or UNEs that result from such conversion. If pursuant to the preceding sentence, IDT fails to meet (including ceases to meet) the eligibility criteria applicable to a UNE or combination of UNEs, or Commingled Arrangement (as defined herein), SBC Wisconsin may convert the UNE or UNE combination, or Commingled Arrangement, to the equivalent wholesale service, or group of wholesale services, upon written notice to IDT.
- 5.4.1 This Section 5.4 applies to any UNE or combination of UNEs, including whether or not such UNE or combination of UNEs had been previously converted from an SBC Wisconsin service.
- 5.4.2 SBC Wisconsin may exercise its audit rights provided for hereunder in auditing compliance with any applicable eligibility criteria.
- 5.4.3 Nothing contained in this Amendment provides IDT with an opportunity to supersede or dissolve existing contractual arrangements, or otherwise affects SBC Wisconsin's ability to enforce any tariff, contractual, or other provision(s), including those providing for early termination liability or similar charges.
- 6.0 Mandatory Eligibility Criteria –TRO Clarifications**
- 6.1 An Enhanced Extended Loop or “EEL” means a UNE combination consisting of an unbundled loop(s) and unbundled Dedicated Transport, together with any facilities, equipment, or functions necessary to combine those UNEs (including, for example, multiplexing capabilities).
- 6.2 SBC Wisconsin is not obligated, and shall not, provide access to (1) an unbundled DS1 loop in combination, or Commingled, with a dedicated DS1 transport facility or service or a dedicated DS3 or higher transport facility or service, or an unbundled DS3 loop in combination, or Commingled, with a dedicated DS3 or higher transport facility or service, or (2) an unbundled dedicated DS1 transport facility in combination, or Commingled, with an unbundled DS1 loop or a DS1 channel termination service, or to an unbundled dedicated DS3 transport facility in combination, or Commingled, with an unbundled DS1 loop or a DS1 channel termination service, or to an unbundled DS3 loop or a DS3 or higher channel termination service (collectively, the “Included Arrangements”), unless IDT certifies that all of the following conditions (hereinafter the “Mandatory Eligibility Criteria”) are met with respect to the arrangement being sought:
- 6.2.1 IDT (directly and not via an Affiliate) has received state certification to provide local voice service in the area being served or, in the absence of a state certification requirement, has complied with registration, tariffing, filing fee, or other regulatory requirements applicable to the provision of local voice service in that area.

- 6.2.2 Pursuant to Rule 51.318, the following criteria are satisfied for each Included Arrangement, including without limitation each DS1 circuit, each DS3 circuit, each DS1 EEL and each DS1 equivalent circuit on a DS3 EEL:
- 6.2.2.1 Each circuit to be provided to each customer will be assigned a local telephone number prior to the provision of service over that circuit; and
 - 6.2.2.2 Each DS1-equivalent circuit on a DS3 EEL or on any other Included Arrangement, must have its own Local Telephone Number assignment, so that each DS3 must have at least 28 Local voice Telephone Numbers assigned to it; and
 - 6.2.2.3 Each circuit to be provided to each customer will have 911 or E911 capability prior to the provision of service over that circuit; and
 - 6.2.2.4 Each circuit to be provided to each End User will terminate in a collocation arrangement that meets the requirements of Section 6.3 of this Amendment; and
 - 6.2.2.5 Each circuit to be provided to each End User will be served by an interconnection trunk that meets the requirements of Section 6.4 of this Amendment; and
 - 6.2.2.6 For each 24 DS1 EELs, or other facilities having equivalent capacity, IDT will have at least one active DS1 local service interconnection trunk that meets the requirements of Section 6.4 of this Amendment; and
 - 6.2.2.7 Each circuit to be provided to each customer will be served by a switch capable of providing local voice traffic.
- 6.3 A collocation arrangement meets the requirements of Section 6 of this Amendment if it is:
- 6.3.1 Established pursuant to Section 251(c)(6) of the Act and located at SBC Wisconsin's premises within the same LATA as the End User's premises, when SBC Wisconsin is not the collocator; or
 - 6.3.2 Located at a third party's premises within the same LATA as the End User's premises, when SBC Wisconsin is the collocator.
- 6.4 An interconnection trunk meets the requirements of Sections 6.2.2.5 and 6.2.2.6 of this Amendment if IDT will transmit the calling party's Local Telephone Number in connection with calls exchanged over the trunk.
- 6.5 SBC Wisconsin makes forms available for the certifications required by this Section 6. IDT prefers an alternative method of certification; accordingly, IDT agrees to submit a letter, in the form attached hereto as Exhibit 1, dated as of the execution date of this Amendment from an Officer of IDT to the Vice President of SBC Account Management, certifying that IDT has implemented procedures such that IDT certifies that any and all orders it submits, for high capacity EELs, will meet the Mandatory Eligibility Criteria set forth in Section 6.2 on a circuit-by-circuit/service-by-service/Included Arrangement-by-Included Arrangement basis. Such certification shall have the

same weight and effect as a separate certification, and such certification shall not diminish IDT's obligation to comply with the criteria or certification requirements set forth in this Section 6.

6.5.1 If the information previously provided in a certification is inaccurate (or ceases to be accurate), IDT shall update such certification promptly with SBC Wisconsin.

6.6 In addition to any other audit rights provided for in the Agreement and those allowed by law, SBC Wisconsin may obtain and pay for an independent auditor to audit IDT, on an annual basis, applied on a State-by-State basis, for compliance with this Section 6. For purposes of calculating and applying an "annual basis", it means for a State a consecutive 12-month period, beginning upon SBC Wisconsin's written notice that an audit will be performed for that State, subject to Section 6.6.4 of this Section.

6.6.1 Unless otherwise agreed by the Parties (including at the time of the audit), the independent auditor shall perform its evaluation in accordance with the standards established by the American Institute for Certified Public Accountants (AICPA), which will require the auditor to perform an "examination engagement" and issue an opinion regarding IDT's compliance with the qualifying service eligibility criteria.

6.6.2 The independent auditor's report will conclude whether IDT complied in all material respects with this Section 6.

6.6.3 Consistent with standard auditing practices, such audits require compliance testing designed by the independent auditor, which typically include an examination of a sample selected in accordance with the independent auditor's judgment.

6.6.4 To the extent the independent auditor's report concludes that IDT failed to comply with this Section 6, IDT must true-up any difference in payments beginning from the date that the non-compliant circuit did not meet the criteria in Section 6. In addition, IDT must promptly convert the UNE or UNE combination, or Commingled Arrangement, to an equivalent or substantially similar wholesale service, or group of wholesale services, and IDT shall timely make the correct payments on a going-forward basis, and all applicable remedies for failure to make such payments shall be available to SBC Wisconsin. If IDT fails to promptly convert the UNE or UNE combination or Commingled Arrangement, SBC Wisconsin may initiate and affect such conversion on its own.

6.6.4.1 To the extent that the independent auditor's report concludes that IDT failed to comply in all material respects with this Section 6, IDT must reimburse SBC Wisconsin for the cost of the independent auditor.

6.6.4.2 To the extent the independent auditor's report concludes that the IDT complied in all material respects with this Section 6, SBC Wisconsin must reimburse IDT for its reasonable staff time and other reasonable costs associated in responding to the audit (e.g., collecting data in response to the auditor's inquiries, meeting for interviews, etc.).

6.6.5 IDT will maintain the appropriate documentation to support its eligibility certifications, pursuant to Section 6.2.

- 6.7 Without affecting the application or interpretation of any other provisions regarding waiver, estoppel, laches, or similar concepts in other situations, IDT shall fully comply with this Section 6 in all cases and, further, the failure of SBC Wisconsin to require such compliance, including if SBC Wisconsin provides a circuit(s), an EEL(s), or a Commingled circuit, that does not meet any eligibility criteria, including those in this Section 6, shall not act as a waiver of any part of this Section, and estoppel, laches, or other similar concepts shall not act to affect any rights or requirements hereunder.

7.0 Routine Network Modifications – TRO Clarifications

- 7.1 SBC Wisconsin shall make all routine network modifications, as defined by 47 CFR §§319(a)(8) and 319(e)(5), to unbundled loop and transport facilities used by IDT where the requested loop or transport facility has already been constructed. SBC Wisconsin shall perform routine network modifications to unbundled loop or transport facilities in a nondiscriminatory fashion, without regard to whether the loop or transport facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier.
- 7.2 A routine network modification is an activity that SBC Wisconsin regularly undertakes for its own customers. Routine network modifications include, rearranging or splicing of existing cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer; and attaching electronic and other equipment that SBC Wisconsin ordinarily attaches to activate such a loops to activate for its own retail customers under the same conditions and in the same manner that SBC Wisconsin does for its own retail customers. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. SBC Wisconsin will place drops in the same manner as it does for its own customers.
- 7.3 Routine network modifications do not include constructing new loops; installing new cable; securing permits or, rights-of-way; constructing and/or placing new manholes, or conduits; or installing new terminals. SBC Wisconsin is not obligated to perform those activities for a requesting telecommunications carrier.
- 7.4 SBC Wisconsin shall determine whether and how to perform routine network modifications using the same network or outside plant engineering principles that would be applied in providing service to SBC Wisconsin's retail customers.
- 7.5 SBC Wisconsin will impose only non-recurring charges for Routine Network Modifications and only in instances where costs relating to such Routine Network Modifications are not already recovered through existing, applicable recurring and non-recurring rates or charges. Charges for Routine Network Modifications shall include non-recurring direct time and material costs of each modification, plus overhead allocation consistent with that applicable to UNEs. Prior to beginning work on any Routine Network Modification, SBC Wisconsin shall notify IDT, in writing, of the need for such a modification. If a Routine Network Modification is subject to additional charges, IDT will be given the option of either canceling the order or requesting a price quote for the required Routine Network Modification. If IDT requests a price quote, SBC Wisconsin will not proceed with the Routine Network Modification before receiving an affirmative written response from IDT. Upon accepting the price quote, IDT shall be required to pay for the Routine Network Modification, if the order is subsequently cancelled; provided, however, that no charges shall apply if IDT cancels its order prior to SBC Wisconsin beginning such modification. ICB rates shall apply to Routine

Network Modifications unless and until the Parties negotiate specific rates for such Routine Network Modifications or until specific rates are otherwise established for such Routine Network Modifications through applicable state commission proceedings.

8.0 Access to Local Loop

- 8.1 Subject to Section 8.2 below, SBC Wisconsin is prohibited from engineering the transmission capabilities of their loops in a way that would disrupt or degrade the local loop UNEs (either hybrid loops or stand-alone copper loops) provided to IDT. SBC Wisconsin shall not engage in any policy, practice, or procedure, that disrupts or degrades access to the time division multiplexing-based features, functions, and capabilities of a hybrid loop, for which IDT may obtain or has obtained access pursuant to this Agreement, including this Amendment, provided, however, that nothing herein shall obligate SBC Wisconsin to build TDM capability into new packet-based networks or into existing packet-based networks that never had TDM capability.
- 8.2 Notwithstanding anything to the contrary in the Agreement, as amended hereby, nothing herein shall limit either Party's ability to upgrade its network through the incorporation of new equipment, new software or otherwise or to otherwise change and/or modify its network including, without limitation, through the retirement and/or replacement of equipment, software or otherwise. Each Party agrees to comply with the Network Disclosure rules adopted by the FCC in CC Docket No. 96-98, Second Report and Order, codified at 47 C.F.R. 51.325 through 51.335, as such rules may be amended from time to time (the "Network Disclosure Rules").
- 8.3 "Hybrid Loops." SBC Wisconsin will provide IDT with access to hybrid loops in accordance with 47 C.F.R. §51.319(a)(2). A Hybrid Loop is a local loop composed of both fiber optic cable usually in the feeder plant, and copper wire or cable, usually in the distribution plant
- 8.3.1 Packet switching facilities, features, functions, and capabilities. SBC Wisconsin is not required to provide unbundled access to the packet switched features, functions and capabilities of its hybrid loops. Packet switching capability is the routing or forwarding of packets, frames, cells, or other data units based on address or other routing information contained in the packets, frames, cells or other data units, and the functions that are performed by the digital subscriber line access multiplexers, including but not limited to the ability to terminate an end-user customer's copper loop (which includes both a low-band voice channel and a high-band data channel, or solely a data channel); the ability to forward the voice channels, if present, to a circuit switch or multiple circuit switches; the ability to extract data units from the data channels on the loops; and the ability to combine data units from multiple loops onto one or more trunks connecting to a packet switch or packet switches.
- 8.3.2 Broadband services. When IDT seeks access to a hybrid loop for the provision of broadband services, SBC Wisconsin shall provide IDT with nondiscriminatory access to the time division multiplexing-based (TDM based) features, functions, and capabilities of that hybrid loop including DS1 or DS3 capacity (where impairment has been found to exist) regardless of the type of loop architecture (e.g., NGDLC, UDLC, IDLC) on an unbundled basis to establish a complete transmission path between the SBC Wisconsin central office and an end user customer premises. This access shall include access to all features, functions, and capabilities of the hybrid loop that are not used to transmit packetized information.

8.3.3 Narrowband services. For narrowband access, SBC Wisconsin shall provide nondiscriminatory access, on an unbundled basis, to an entire hybrid loop capable of voice-grade service (*i.e.*, equivalent to DS0 capacity), using time division multiplexing technology; or to a spare home-run copper loop serving that customer on an unbundled basis.

9.0 TRO Remand-Declassified Elements (Mass Market Unbundled Local Switching and UNE-P) and Transition Period

9.1 Notwithstanding anything in the Agreement, pursuant to Rule 51.319(d) as set forth in the *TRO Remand Order*, effective March 11, 2005, IDT is not permitted to obtain new Mass Market ULS, either alone or in combination (as in with "UNE-P") at UNE rates. Accordingly, pursuant to Rule 51.319(d)(2)(iii), although SBC Wisconsin shall continue to provide access to Mass Market ULS or Mass Market UNE-P to IDT for IDT to serve its embedded base of end-user customers for the transition period specified in Section 9.2 below, beginning on March 11, 2005, the price for Mass Market ULS and UNE-P shall be the higher of (A) the rate at which IDT obtained such Mass Market ULS and UNE-P on June 15, 2004 plus one dollar, or (B) the rate the applicable State Commission established(s), if any, between June 16, 2004, and March 11, 2005, for such Mass Market ULS and UNE-P, plus one dollar.³ For purposes of this Amendment, "Mass Market" shall mean 1 – 23 lines, inclusive (*i.e.* less than a DS1 or "Enterprise" level.) IDT shall be fully liable to SBC Wisconsin to pay such pricing under this Amendment, including applicable terms and conditions governing failure to comply with payment terms, notwithstanding anything to the contrary in the Agreement. SBC Wisconsin's transitional provision of embedded base Mass Market ULS or Mass Market UNE-P under this Section 9 shall be on an "as is" basis, except that IDT may continue to submit orders to add, change or delete features on the embedded base Mass Market ULS or Mass Market UNE-P, or may re-configure to permit or eliminate line splitting. Concurrently with its provision of embedded base Mass Market ULS or Mass Market UNE-P, and subject to this Section 9, SBC Wisconsin shall also continue to provide access to call-related databases, SS7 call setup, ULS shared transport and other switch-based features in accordance with and only to the extent permitted by the terms and conditions set forth in the Agreement, and only to the extent the features are "loaded" and "activated" in the switch.

9.1.1 For purposes of this Amendment, the term "embedded base" shall mean Mass Market ULS or Mass Market UNE-P ordered by IDT from SBC Wisconsin prior to March 11, 2005, except in states where the applicable public utilities commission has in a final order of general applicability interpreted the meaning of "embedded base" differently. Subject to its rights under Section 12.6, SBC Wisconsin shall comply with such final orders.

9.2 In order to complete the transition of IDT's embedded base of Mass Market ULS and Mass Market UNE-P arrangements by March 11, 2006, IDT will begin issuing the appropriate orders to either disconnect such arrangements or convert to an alternative service arrangement (such as a Total Services Resale (TSR)) beginning no later than January 3, 2006 in accordance with the applicable procedures outlined in SBC's CLEC Handbook. For those IDT Mass Market ULS/UNE-P embedded base lines remaining in place on January 3, 2006, IDT must issue orders to either disconnect those lines or convert those lines to an alternative service arrangement in accordance with the applicable procedures outlined in SBC's CLEC Handbook. IDT must complete such disconnects or conversions on an evenly-distributed daily basis between January 3, 2006 and

³ To the extent that the State Commission order raises some rates and lowers others for the aggregate combination of loops, shared transport, and switching (*i.e.* UNE-P), SBC Wisconsin may adopt either all or none of these UNE platform rate changes.

March 3, 2006. For example, but not by way of limitation, if IDT has 60 Mass Market ULS/UNE-P lines in place on January 3, 2006, IDT must submit orders with the requisite due dates such that SBC Wisconsin is able to complete the disconnection or conversion to an alternative service arrangement of one IDT embedded base line per day beginning January 3, 2006 and continuing through March 3, 2006.

9.2.1 To the extent any IDT embedded base Mass Market ULS/UNE-P lines remain in place at the conclusion of the twelve (12) month transition period, SBC Wisconsin, without further notice or liability, will re-price such arrangements to market based rates.

9.3 SBC Wisconsin shall provide IDT with the requested conversions with any disruption to the end user's services reduced to a minimum or, where technically feasible given current systems and processes, no disruption should occur. Where disruption is unavoidable due to technical considerations, SBC Wisconsin shall accomplish such conversions to minimize any disruption detectable to the end user. Where necessary or appropriate, SBC Wisconsin shall coordinate it with IDT's representatives to accomplish this goal.

9.4 Sections 9.1 and 9.2, above, apply and are operative regardless of whether IDT is requesting Mass Market ULS or Mass Market UNE-P under the Agreement as amended by this Amendment or under a state tariff, if applicable, and regardless of whether the state tariff is referenced in the Agreement or not.

10.0 TRO Remand Declassified Elements (High-capacity Loop and Transport) and Transition Period

10.1 Notwithstanding anything in the Agreement, pursuant to Rule 51.319(a) and Rule 51.319(e) as set forth in the *TRO Remand Order*, effective March 11, 2005, IDT is not permitted to obtain the following new unbundled high-capacity loop and dedicated transport elements, either alone or in combination:

(i) Dark Fiber Loops;

(ii) DS1/DS3 Loops in excess of the caps or to any building served by a wire center described in Rule 51.319(a)(4) or 51.319(a)(5), as applicable;

(iii) DS1/DS3 Transport in excess of the caps or between any pair of wire centers as described in Rule 51.319(e)(2)(ii) or 51.319(e)(2)(iii), as applicable; or

(iv) Dark Fiber Transport, between any pair of wire centers as described in Rule 51.319(e)(2)(iv).

The above-listed element(s) are referred to herein as the "Affected Element(s)."

10.2 Intentionally left blank.

10.2.1 In connection with access to unbundled dedicated transport pursuant to 47 CFR § 51.319(e), SBC Wisconsin has identified Tier 1 and Tier 2 wire centers in accordance with the criteria set forth in 47 CFR § 51.319(e)(3). In connection with access to unbundled DS1 and DS3 loops pursuant to 47 CFR § 51.319(a), SBC Wisconsin has identified wire centers in accordance with the criteria set forth in 47 CFR §§ 51.319(a)(4) and (a)(5). SBC Wisconsin has posted a listing of all such identified wire centers to its CLEC Online

website. SBC Wisconsin will provide thirty (30) days advance notice to IDT prior to posting updates to its non-impaired wire center listing.

- 10.2.1.1 If the number of fiber-based collocators in, and/or the number of business lines served by, a wire center rises such that the classification of that wire center (i) as Tier 1, 2 or 3 would change, for purposes of access to unbundled dedicated transport pursuant to 47 CFR § 51.319(e), or (ii) changes for purposes of access to unbundled DS1 or DS3 loops pursuant to 47 CFR § 51.319(a), SBC Wisconsin may post to its wire center list at the CLEC On-Line website and shall provide notice to all CLECs in an Accessible Letter, identifying each wire center affected, whether the wire center is affected for purposes of access to unbundled dedicated transport or unbundled DS1/DS3 loops. Such notices will be provided to CLECs each time SBC Wisconsin updates a wire center list posted on its CLEC Online website pursuant to this Section 10.2.1.
- 10.2.2 IDT shall undertake a reasonably diligent inquiry to determine whether a new order for DS1, DS3 or Dark Fiber Transport or DS1 or DS3 Loop(s) (not part of IDT's embedded base) is disallowed by the criteria set forth in Section 10.1, above, prior to submitting its order to SBC Wisconsin and self-certify in writing to SBC Wisconsin prior to submitting its order that based on its reasonable inquiry the order satisfies such criteria. If IDT makes such self-certification in writing, and to the extent (a) such self-certification is not contrary to a previous finding by the FCC or state commission (or other similar finding) of non-impairment for that element in the applicable wire center and (b) and such elements are otherwise available under this Agreement, including this Amendment, SBC Wisconsin shall provision (even if SBC Wisconsin disputes IDT's self-certification) the requested DS1 or DS3 loop or transport or Dark Fiber transport in accordance with IDT's order and within SBC Wisconsin's standard ordering interval applicable to such facilities and, if it desires to do so, SBC Wisconsin may dispute the self-certification and associated orders pursuant to Section 10.2.2.1, below. IDT must remain in compliance with its self-certification for so long as IDT continues to receive the aforementioned facilities and/or services from SBC Wisconsin and promptly notify SBC Wisconsin of any non-compliance. If SBC Wisconsin's wire center list changes, such that facilities in use by IDT are no longer available as Unbundled Network Elements, pursuant to 47 CFR §§ 51.319(a) or (e), then the parties shall follow the process set forth in Section 10.3.
- 10.2.2.1 Disputes regarding IDT's compliance with Section 10.2.2 shall be addressed through the dispute resolution process set out in the Agreement or any available FCC or State Commission processes or proceedings designed to review and approve SBC Wisconsin's non-impairment designation(s). If the Parties determine through informal dispute resolution, or the applicable State Commission determines in an arbitration or otherwise after formal dispute resolution, or it is otherwise determined by the FCC or State Commission, or other regulatory or legal body or court of competent jurisdiction that IDT was not entitled to the provisioned facility pursuant to 47 CFR §§ 51.319(a) or (e), as applicable, the rates paid by IDT for the affected facility shall be subject to true-up to an equivalent month-to-month special access rate as of the later of the date (i) upon which SBC Wisconsin was no longer required to provide access to the provisioned element pursuant to 47 CFR §§ 51.319(a) or (e), as applicable, or (ii) billing began for the provisioned element. In addition, IDT shall be required to issue an order to disconnect or to transition from the UNE facility to another

service within 90 days after the determination. If IDT does not issue an order to disconnect or to transition the facility within the 90 day period, then SBC Wisconsin may transition the facility to a month-to-month special access arrangement.

10.2.2.2 In the event of a dispute following IDT's self-certification pursuant to Section 10.2.2 above, upon reasonable request by the FCC, state Commission or SBC Wisconsin, IDT will make available, subject to the appropriate state or federal protective order, and other reasonable safeguards, data supporting its self-certification as being consistent with the requirements of the FCC's TRRO, only to the extent necessary to substantiate its self-certification. Upon reasonable request by the FCC, state Commission or IDT, SBC Wisconsin will make available, subject to the appropriate state or federal protective order, and other reasonable safeguards, data supporting its classification of wire centers as Tier 1 or Tier 2 with respect to unbundled dedicated transport, and its classification of wire centers with respect to unbundled DS1/DS3 loops, only to the extent necessary to justify the classification.

10.2.3 Accordingly, pursuant to Rules 51.319(a) and (e), although SBC Wisconsin shall continue to provide IDT's embedded base of the Affected Element(s) for the transition period specified in Section 10.3 below, if and as provided by the Agreement, beginning on March 11, 2005, the price for the embedded base Affected Element(s) shall be the higher of (A) the rate IDT paid for the Affected Element(s) as of June 15, 2004 *plus* 15% or (B) the rate the state commission has established or establishes, if any, between June 16, 2004 and March 11, 2005 for the Affected Element(s), *plus* 15%. To the extent the State Commission raises some rates and lowers others for high capacity loops, SBC Wisconsin may adopt either all or none of these high capacity loop rate changes. To the extent the State Commission raises some rates and lowers others for dedicated transport, SBC Wisconsin may adopt either all or none of these dedicated transport rate changes. IDT shall be fully liable to SBC Wisconsin to pay such pricing under the Amendment, including applicable terms and conditions governing failure to comply with payment terms, notwithstanding anything to the contrary in the Agreement.

10.2.4 For purposes of this Amendment, the term "embedded base" shall mean Affected Elements properly ordered by IDT prior to March 11, 2005.

10.3 For any Affected Elements, IDT will issue the appropriate orders to disconnect or convert to an analogous access service (including special access service purchased pursuant to any Optional Payment Plan ("OPP") or other agreement providing for term or volume discounts between IDT and SBC Wisconsin, subject to the terms and conditions of such OPP or other agreement.); provided, however, SBC Wisconsin and IDT shall mutually agree on a transition schedule for completing the work on such orders to ensure an orderly transition of IDT's embedded base Affected Element customers to be completed by the end of the transition period defined in the TRO Remand Order (12 or 18 months—March 11, 2006 or September 11, 2006 from the TRO Remand Order's effective date as applicable). Any charges applicable to the OPP or other arrangement shall apply as of that order completion date for such conversion and be reflected in the next available billing cycle.

10.3.1 To the extent SBC Wisconsin modifies the Wire Center List pursuant to Section 10.2.1 of this Amendment, so that additional wire centers/routes/buildings are non-impaired, the

Parties agree to work together to develop a mutually agreeable conversion schedule, taking in to consideration the number and location of facilities to be converted not to exceed the later of (i) 90 days or (ii) the applicable FCC transition period(s) specified above.

- 10.3.2 For Dark Fiber Affected Elements, IDT will remove all IDT services from such Dark Fiber Affected Elements and return the facilities to SBC Wisconsin by the end of the eighteen (18) month transition period. If IDT fails to comply with this section, SBC Wisconsin, without further notice or liability may disconnect and reclaim the facilities.
- 10.3.3 To the extent that there are IDT embedded base Affected DS1 or DS3 High-Capacity Loops or Dedicated Transport in place at the conclusion of the 12-month transition period, SBC Wisconsin, without further notice or liability, will convert them to a Special Access month-to-month service under the applicable access tariffs.
- 10.4 SBC Wisconsin shall provide IDT with the requested conversions with any disruption to the end user's services reduced to a minimum or, where technically feasible given current systems and processes, no disruption should occur. Where disruption is unavoidable due to technical considerations, SBC Wisconsin shall accomplish such conversions to minimize any disruption detectable to the end user. Where necessary or appropriate, SBC Wisconsin shall coordinate it with IDT's representatives to accomplish this goal.
- 10.5 Sections 10.3.1 and 10.3.2, above, apply and are operative regardless of whether IDT is requesting the Affected Element(s) under the Agreement, including this Amendment or under a state tariff, if applicable, and regardless of whether the state tariff is referenced in the Agreement, including this Amendment or not.
- 10.6 Mass Market ULS, Mass Market UNE-P and the Affected Elements are sometimes collectively referred to in this Amendment as "TRO Remand-Declassified Elements."
- 11.0 Notice and Transition for Declassified TRO Elements**
- 11.1 With the exception of the TRO Remand Declassified Elements for which the FCC has defined a transition period as set forth in Sections 9.2 and 10.3, this Section sets forth the Notice and Transition Processes for Declassified TRO Elements.
- 11.1.1 SBC Wisconsin is not required to provide the element(s) on an unbundled basis, either alone or in combination (whether new, existing, or pre-existing) with any other element, service or functionality, to IDT under this Agreement, including this Amendment, and the following notice and transition procedure shall apply. IDT's ability to Commingle a facility or service previously acquired as a UNE with a UNE or Combination of UNEs is limited as set forth in Sections 4, 5, and 6.
- 11.2 SBC Wisconsin will provide written notice to IDT of the fact that the network element(s) and/or the combination or other arrangement in which the network element(s) had been previously provided on an unbundled basis is no longer required to be provided. During a transitional period of thirty (30) days from the date of such notice, SBC Wisconsin agrees to continue providing such network element(s) pursuant to the terms and conditions of the underlying Agreement.

- 11.2.1 Upon receipt of such written notice, IDT will cease new orders for such network element(s) that are identified in the SBC Wisconsin notice letter. SBC Wisconsin reserves the right to monitor, review, and/or reject IDT orders transmitted to SBC Wisconsin and, to the extent that the IDT has submitted orders and such orders are provisioned after this thirty (30)-day transitional period, such network elements are still subject to this Section 11.2.1, including the IDT options set forth in Section 11.2.2 below, and SBC Wisconsin's right of conversion in the event the IDT options are not accomplished by the end of the 30-day transitional period.
- 11.2.2 During such thirty (30) day transitional period, the following options are available to IDT with regard to the network element(s) identified in the SBC Wisconsin notice, including the combination or other arrangement in which the network element(s) were previously provided:
- (i) IDT may issue an LSR or ASR, as applicable, to seek disconnection or other discontinuance of the network element(s) and/or the combination or other arrangement in which the element(s) were previously provided; or
 - (ii) SBC Wisconsin and IDT may agree upon another service arrangement (e.g. via a separate agreement at market-based rates or resale), or may agree that an analogous resale service or access product or service may be substituted, if available.

Notwithstanding anything to the contrary in the Agreement, including any amendments to the Agreement, at the end of the thirty (30) day transitional period, unless IDT has submitted a disconnect/discontinuance LSR or ASR, as applicable, under Section 11.2.2(i), above, and if IDT and SBC Wisconsin have failed to reach agreement, under Section 11.2.2(ii), above, as to a substitute service arrangement or element, then SBC Wisconsin will convert the subject element(s), whether alone or in combination with or as part of any other arrangement to an analogous resale service under the Parties' Agreement or access service or arrangement, if available, at rates applicable to such analogous service or arrangement.

- 11.3 SBC Wisconsin shall provide IDT with the requested conversions with any disruption to the end user's services reduced to a minimum or, where technically feasible given current systems and processes, no disruption should occur. Where disruption is unavoidable due to technical considerations, SBC Wisconsin shall accomplish such conversions to minimize any disruption detectable to the end user. Where necessary or appropriate, SBC Wisconsin shall coordinate it with IDT's representatives to accomplish this goal.

12.0 Miscellaneous

- 12.1 Except as otherwise provided in this Amendment, the Parties acknowledge the general application and effectiveness of the Agreement's "change of law," "intervening law", "successor rates" and/or any similarly purposed provisions. Accordingly, each of the rights and obligations set forth in this Amendment is cumulative and is in addition to any other rights and obligations that may be created by such intervening law, change in law or other substantively similar provision.
- 12.2 EXCEPT AS MODIFIED HEREIN OR AS OTHERWISE LATER AGREED BY THE PARTIES IN A WRITING SIGNED BY AUTHORIZED REPRESENTATIVES OF THE PARTIES, ALL OTHER

TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED. This Amendment will become effective as of the Amendment Effective Date, and will terminate on the termination or expiration of the Agreement.

- 12.3 This Amendment shall be effective as of March 11, 2005⁴ subject to any necessary commission approval ("Amendment Effective Date"). In the event that all or any portion of this Amendment as agreed-to and submitted is rejected and/or modified by the State Commission, this Amendment shall be automatically suspended and, unless otherwise mutually agreed, the Parties shall expend diligent efforts to arrive at mutually acceptable new provisions to replace those rejected and/or modified by the State Commission; provided, however, that failure to reach such mutually acceptable new provisions within thirty (30) days after such suspension shall permit either Party to terminate this Amendment upon ten (10) days written notice to the other.
- 12.4 This Amendment constitutes the entire amendment of the Agreement and supersedes all previous proposals, both verbal and written, regarding the subject matter covered by the Amendment.
- 12.5 This Amendment may be executed in counterparts, each of which shall be deemed an original but all of which when taken together shall constitute a single agreement.
- 12.6 By entering into this Amendment to obtain the benefits set forth herein in whole or in part, each Party expressly waives its right to challenge the terms of the Agreement as amended by this Amendment, in any judicial, dispute resolution or regulatory proceeding, except that each Party expressly reserves the right to (i) to challenge or support any determination by a state or federal regulatory or legislative bodies or courts of competent jurisdiction relating to the definition and/or scope of the term "embedded base" in Section 9.1.1 of this Amendment or (ii) to seek clarification or interpretation of the terms of this Agreement, including this Amendment, through the dispute resolution process established by the State Commission or challenge in any judicial, dispute resolution or regulatory proceeding regarding the interpretation of this Agreement or any agreement containing the same or substantially similar language to this Agreement, including this Amendment; such right to seek clarification or interpretation or challenge the interpretation also includes the right to appeal the final judicial, dispute resolution or regulatory decision and to continue to pursue pending appeals. When a final decision is rendered by the appellate court, the affected contract provision shall be revised to reflect the result of such appeal. Any dispute between the Parties regarding the manner in which this Agreement, including this Amendment should be modified to reflect the effect of the appellate court decision shall be resolved by the State Commission. Neither Party waives any legal argument, position, or assertion whatsoever in future arbitrations except IDT waives its right to advocate in future arbitrations that SBC Wisconsin's voluntarily agreed and/or extended the terms and conditions of the Agreement.

⁴ IDT agrees that SBC Wisconsin may bill the transition rates set forth in Sections 9.1 and 10.2.3 effective March 11, 2005, but SBC Wisconsin agrees that payment of the increase in rates reflected in such provisions (and billed prior to execution of this Amendment) is not due under the terms of the Agreement until thirty (30) days after this Amendment is fully executed by the Parties.

IN WITNESS WHEREOF, the following signatures on the dates set forth.

IDT America Corp

Wisconsin Bell, Inc. d/b/a SBC Wisconsin by SBC
Operations, Inc., its authorized agent

Signature: _____

Signature: _____

Name: _____

Name: _____

Title : _____

Title: AVP-Local Interconnection Marketing

Date: _____

Date: _____

FACILITIES-BASED OCN # _____

ACNA _____

EXHIBIT 1

Date:
Mr./Ms _____
VP SBC Account Management
[SBC fill in remaining address information]

Re: High Capacity EEL Certification

Dear _____:

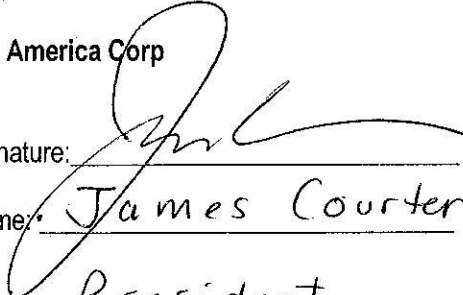
As you are aware, IDT America Corp (IDT) operates under an interconnection agreement with SBC Wisconsin in Wisconsin (the ICA). With this letter Comcast confirms that it has implemented procedures such that IDT hereby certifies that any and all orders IDT submits for high capacity EELs, meet the Mandatory Eligibility Criteria set forth in Section 6.2 of those certain amendments, dated on or about _____, to the ICAs, on a circuit-by-circuit, service-by-service, Included Arrangement-by-Included Arrangement basis.

Should you have any questions, please contact _____.

Sincerely,

[Print Name]
[Title]

IN WITNESS WHEREOF, the following signatures on the dates set forth.

IDT America Corp
Signature: 
Name: James Courter
Title: President

Date: 11/23/05

Wisconsin Bell, Inc. d/b/a SBC Wisconsin by SBC
Operations, Inc., its authorized agent

Signature: 
Name: Mike Auinbaub

Title: AVP-Local Interconnection Marketing

Date: NOV 30 2005

FACILITIES-BASED OCN # 862A

ACNA IDR

REVIEWED BY LEGAL DEPT.	
Date	Initial
11/4/05	hmv